

## **REMARKS**

### **Status of the Claims**

Claims 5-14 are pending. Claims 1-4 are canceled. Claims 5-14 are added. Support for claims 5-14 can be found throughout the specification. No new matter is added in the above claim amendment.

### **Issues Under 35 U.S.C. § 102**

Claim 1 was rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by the Sitrick et al. application (US 2003/0110926). This rejection is respectfully traversed. However, in view of the above amendment, Applicant respectfully submits that this rejection is moot. Claim 1 is cancelled.

The pending claims are not anticipated by Sitrick et al., who disclose an electronic music stand apparatus that comprises a performer substation that has a processing subsystem, librarian logic, performer logic, and communications management logic.

Sitrick et al. fail to disclose or suggest a musical instrument that comprises a body, neck, strings, and computer as claimed. The present invention provides visual information to a user of the musical instrument. On the other hand, the Sitrick et al. provide information in a workstation setting.

In order to anticipate a claim, a single prior art reference must expressly or inherently describe each and every element as set forth in the claim. Verdegaal Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, the “identical invention

must be shown in as complete detail as is contained in the ... claim.” Richardson v. Suzuki Motor Co., 9 U.S.P.Q.2d 1931, 1920 (Fed. Cir. 1987).

In view if the deficiencies of Sitrick discussed above, Applicant respectfully requests that this rejection be withdrawn.

#### Issues Under 35 U.S.C. § 103

Claims 2-4 are rejected under 35 U.S.C. § 103 as allegedly being obvious over Sitrick et al. in view of Whittman (US 5,637,820). This rejection is respectfully traversed. However, in view of the above amendment, Applicant respectfully submits that this rejection is moot. Claims 2-4 are canceled.

The pending claims are not rendered obvious by Sitrick in view of Whittman. The deficiencies of Sitrick are discussed above. These deficiencies are not remedied by Whittman, the secondary reference.

Whittman discloses a stringed instrument that has an on-board tuner which detects vibrations of the strings and determines and displays the identity of the string which is being played and the deviations of the string’s pitch relative to an in-tune reference pitch. The tuner comprises a tuner circuit, independent power source, and display. Preferably, the tuner circuit is located in an existing control cavity, and preferably the display is located on the top surface of the neck. Whittman fails to disclose the computer unit as disclosed in the above claims.

In order to establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings to arrive at

the present invention with a reasonable expectation of success. The prior art reference (or references when combined) must also teach or suggest all the claim limitations. See M.P.E.P. §2142.

In the present case, one of ordinary skill in the art would not be motivated to combine all the bits and pieces of the previously applied prior art references. As an example, in the Sitrick application, there is nothing to suggest the desirability of modifying a music stand and all of the numerous disclosed features thereof to attach to or be incorporated in the body of a stringed instrument. The system of Sitrick does not approach the portability of the computer unit in combination with the stringed instrument as claimed.

The secondary reference, Whittman, has too many inconsistent features with respect to Sitrick and with respect to the present invention for one of ordinary skill in the art to look their direction for possible modifications. For example, one of ordinary skill in the art would not look to a guitar for motivation to modify a music stand.

The Federal Circuit has stated that “virtually all [inventions] are combinations of old elements.” Rouffet, at 1457. That being the case, the Federal Circuit stated that making rejections based on the Examiner finding every element of the claimed invention in the prior art is an “illogical and inappropriate process of which to determine patentability.” Id., at 1457. In the present case, does not appear that a proper rejection of the pending claims can be made by using the previously cited references without improperly using hindsight to piece together claimed elements.

In view of the above, Applicant respectfully submits that the pending claims cannot be said to be obvious over the previously cited references.

From the foregoing, further and favorable reconsideration in the form of a Notice of Allowance is believed to be in order and such action is earnestly solicited.

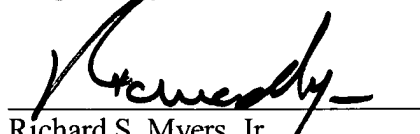
Petition for Extension of Time

Pursuant to the provisions of 37 C.F.R. §§ 1.17, 1.136(a), the Applicants hereby petition for an extension of time of one (1) month to February 5, 2006 for the period in which to file a response to the outstanding Office Action. The required fee of \$60.00 is attached hereto.

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with this Amendment to Deposit Account 50-2752.

If the Examiner has any questions regarding this Amendment or the Application in general, she is requested to contact the undersigned at the number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Myers, Jr.", is written over a horizontal line.

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